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REPLY TO Wilmington Office

June 27, 2007

Via ECF and Hand Delivery

The Honorable Gregory M. Sleet
United States District Court
844 North King Street
Lock Box 19
Wilmington, DE 19801

RE: Talecris Biotherapeutics, Inc. & Bayer Healthcare LLC v. Baxter International, Inc. and Baxter Healthcare Corp., C.A. No. 05-349-GMS

Dear Judge Sleet,

I am writing regarding the deposition of Mr. Lawrence Guiheen. The Court granted leave for Plaintiffs to conduct this deposition at the June 14, 2007 pretrial conference¹. The deposition was duly noticed for today at 9:30 a.m., pursuant to a Notice of Deposition dated and served on June 20, 2007 (copy attached as Guiheen Exhibit "1"). On June 25, 2007, I wrote Mr. Gilliland, counsel for Baxter, and confirmed that Plaintiffs intended to proceed with the deposition of Mr. Guiheen as noticed (copy attached as Exhibit "4"). On June 26, 2007, I again wrote to Mr. Gilliland and confirmed that Plaintiffs intended to proceed with Mr. Guiheen's deposition as noticed (copy attached as Exhibit "5").

We appeared today pursuant to the June 20, 2007 notice of deposition, ready, willing and able to proceed with the deposition of Mr. Guiheen. Defendants sought neither a stay not a protective order. Nonetheless, neither the Defendants, their counsel nor Mr. Guiheen appeared at the deposition (see copy of transcript attached as Exhibit "A").

Instead, Mr. Gilliland has requested that Plaintiffs travel to Los Angeles to take the deposition of Mr. Guiheen, the President of Baxter Biopharmaceuticals and Baxter's stated

¹ Mr. Guiheen was added to Baxter's witness list although he was never identified as a knowledgeable witness until listed in the pretrial order.

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“corporate representative”, on Monday, July 2, 2007, at a time and place of his convenience. The time (a week before the trial of this matter is scheduled to begin) and place (in Los Angeles) is both manifestly unreasonable and contrary to what we understand is customary practice relating to the depositions of corporate representatives where corporations, like Baxter, are asserting claims in this judicial district. Baxter makes this request although it refuses to even confirm whether Mr. Guiheen will actually testify live at trial, a fact previously brought to the Court’s attention on June 21, 2007, in a letter addressing the materially expanded deviation in the scope of Mr. Guiheen’s trial testimony from that represented to the Court by Baxter at the pretrial conference on June 14, 2007 (see Guiheen Exhibit “3” attached).

We respectfully seek the assistance of the Court as the matter has now become urgent because Baxter and Mr. Guiheen have elected to evade the duly noticed deposition of Mr. Guiheen. We therefore request that under all of the circumstances, Mr. Guiheen be excluded from testifying at trial. Alternatively, we respectfully request a telephone conference with the Court at the Court’s earliest convenience due to the urgency of timing to address this problem. We await guidance from the Court.

Respectfully submitted,

/s/ Jeffrey B. Bove

JBB/llw

Jeffrey B. Bove (#998)

cc: Philip A. Rovner, Esquire (via e-filing & e-mail)
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